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In re Application of: :
BOSWELL, Roderick, et al. :
U.S. Application No.: 10/588,981 :
PCT No.: PCT/US2004/034984 :
International Filing Date: 16 October 2004 :
Priority Date: 17 October 2003 :
Atty Docket No.: F146 :
For: CHARGED PARTICLE :
EXTRACTION DEVICE AND :
METHOD OF DESIGN THERE FOR :

DECISION ON PETITION

This decision is issued in response to the "Petition Under 37 CFR 1.181(a) For Withdraw Holding Of Abandonment" filed 13 June 2008. No petition fee is required.

BACKGROUND

On 16 October 2004, applicant filed international application PCT/US2004/034984. The international application claimed a priority date of 17 October 2003, and it designated the United States. The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 17 April 2006.

Applicant did not enter the U.S. national stage and submit the basic national fee prior to 17 April 2006. Accordingly, the international application was abandoned with respect to the United States as of midnight on 17 April 2006.

On 10 August 2006, applicant filed a Transmittal Letter requesting entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an Application Data Sheet (ADS), and a petition for revival under 37 CFR 1.137(b). The ADS directed correspondence herein to be addressed to Customer Number 25,784 (which corresponds to the address set forth above).

On 06 September 2006, this Office issued a decision granting applicants' petition for revival of the international application.

On 18 October 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497 was required. However, this Notification was directed to a mailing address that is unrelated to the above correspondence address of record.

On 27 March 2008, applicants filed declarations executed by the two inventors of record herein.

On 12 May 2008, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a timely response to the Notification Of Missing Requirements mailed 18 October 2006.

On 13 June 2008, applicant filed the "Petition Under 37 CFR 1.181(a) For Withdraw Holding Of Abandonment" considered herein. The petition asserts that the holding of abandonment should be withdrawn because the Notification Of Missing Requirements upon which the abandonment is based was mailed to an incorrect address and therefore was not received by applicants.

DISCUSSION

A review of the Notification Of Missing Requirements (Form PCT/DO/EO/905) mailed herein on 18 October 2006 confirms that the Notification was not mailed to the correspondence address of record in the present application. Accordingly, the Notification of Missing Requirements mailed 18 October 2006 is appropriately vacated.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 May 2008, based as it was on applicants' failure to timely respond to the vacated Notification Of Missing Requirements that was mailed to an incorrect address, is also appropriately vacated, as requested by applicants in the present petition.

As noted above, applicants herein have now filed executed declarations, as required by the Notification Of Missing Requirements. Deposit Account No. 50-1635 will be charged the required \$130 surcharge for filing the declarations later than thirty months after the priority date. Based on applicants' submission of the executed declarations and payment of the required surcharge, there is no need for a corrected Notification Of Missing Requirements to be issued herein.

CONCLUSION

The petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 12 May 2008 and the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 18 October 2006, upon which the abandonment was based, are hereby **VACATED**.

Deposit Account No. 50-1635 will be charged the \$130 surcharge for filing the executed declarations later than thirty months after the priority date.

This application is being returned to the National Stage Processing Branch of the Office of PCT operations for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 27 March 2008.

A handwritten signature in black ink, appearing to read 'RM Ross'.

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